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March 5, 2009

VIA FEDEX

Commission's Secretary
Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: In the Matter of: Petition for Declaratory Ruling that AT&T's Method of Delivering Public, Educational and Government Access Channels over its U-Verse System is Contrary to the Communications Act of 1934, As Amended, and Applicable Commission Rules; MB Docket No. 09-13; CSR-8126, CSR-8127 and CSR-8128

Dear Sir or Madame:

Enclosed herewith for filing please find the original and four (4) copies of the Comments of SCAN NATOA, Inc., City of Irvine, California, City of San Clemente, California, City of Santa Cruz, California, County of Santa Cruz, California and Public Cable Television Authority in Support of Petitions for Declaratory Ruling.

Sincerely,

RUTAN & TUCKER, LLP

Valerie Bloom
Assistant to William M. Marticorena

VB
Enclosure

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In The Matter Of:	MB Docket No. 09-13
Petition for Declaratory Ruling that AT&T's Method of Delivering Public, Educational and Government Access Channels Over Its U-Verse System is Contrary to the Communications Act of 1934, As Amended, and Applicable Commission Rules	CSR-8126 CSR-8127 CSR-8128

COMMENTS OF SCAN NATOA, INC., CITY OF IRVINE, CALIFORNIA, CITY OF SAN CLEMENTE, CALIFORNIA, CITY OF SANTA CRUZ, CALIFORNIA, COUNTY OF SANTA CRUZ, CALIFORNIA AND PUBLIC CABLE TELEVISION AUTHORITY IN SUPPORT OF PETITIONS FOR DECLARATORY RULING

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To: The Commission

I. INTRODUCTION AND SUMMARY.

These comments are filed by SCAN NATOA, Inc. ("SCAN NATOA"), which is the California and Nevada Chapter of the National Association of Telecommunications Officers and Advisors ("NATOA"), the City of Irvine, California, the City of San Clemente, California, the City of Santa Cruz, California, the County of Santa Cruz, California, and the Public Cable Television Authority ("PCTA") (collectively, the "California Communities").

SCAN NATOA is a professional organization representing the cable television and telecommunications interests of over 400 members, primarily consisting of government officials and advisors within the States of California and Nevada, as well as the interests of dozens of local governmental entities in California and Nevada. The City of Irvine, the City of San Clemente, the City of Santa Cruz, and the County of Santa Cruz are local governmental entities which actively provide, or cause to be provided, public, educational, and governmental ("PEG") programming, or a subset thereof, to their residents. Likewise, the Public Cable Television Authority ("PCTA") is a joint powers authority, organized under the laws of the State of California, consisting of the Cities of Fountain Valley, Huntington Beach, Stanton, and Westminster. The PCTA is currently embarking upon a bold program to invest significant dollars in the capital facilities necessary to produce first-rate community interest programming. Collectively, the California Communities have invested millions of dollars in the production of PEG programming over the years.

The California Communities support the Petition for Declaratory Ruling of the Alliance for Community Media, Alliance for Communications Democracy, Sacramento (California), Metropolitan Cable Television Commission, Foothill-DeAnza Community College District, California, Chicago Access Network Television, Illinois NATOA, Manhattan (New York) Neighborhood Network, Bronx Net (N.Y.), Brooklyn (N.Y.) Community Access Television, City of Raleigh, North Carolina, ACM Western Region, ACM Central States Region, ACM Midwest Region, ACM Northwest Region, ACM

Northeast Region, and SETOA; the Petition for Declaratory Ruling of the City of Lansing, Michigan, and the Petition for Declaratory Ruling Regarding Primary Jurisdiction Referral in City of Dearborn, et al, v. Comcast of Michigan III, Inc., et al. of the City of Dearborn, Michigan; the Charter Township of Meridian, Michigan; the Charter Township of Bloomfield, Michigan; and the City of Warren, Michigan (collectively, the "PEG Petitions").

II. AT&T'S CARRIAGE OF ITS PEG PRODUCT AS A "WEB CAST APPLICATION" DOES NOT SATISFY THE STATUTORY REQUIREMENTS OF FEDERAL LAW.

The 1984 and 1992 Cable Acts require the provision of "channels" or "channel capacity," which AT&T simply does not provide.[1] The 1984 Cable Act defines the term "channel" to mean ". . . a portion of the electronic frequency spectrum that is used in a cable television system which is capable of delivering a television channel (as television channel is defined by the Commission by regulation)." (Cable Act, Communications Act, § 602(3), 47 U.S.C. § 522(3)) In relation to "public, education, or government access facilities," the 1984 Cable Act also expressly defines that phrase to include "channel capacity designated for public, educational, or governmental use." (Cable Act, Communications Act, § 602(13)(A), 47 U.S.C. § 522(13)). The concept of PEG channel capacity is utilized repeatedly in Section 611 (Cable Act, Communications Act, §§ 611(a), (b), (c), (d), & (e), 47 U.S.C. §§ 531(a), (b), (c), (d), & (e).). In relation to cable channels for commercial use, the concepts of "channel capacity" and "channels" appears to be utilized interchangeably with the notion of a "channel" simply being an identified subset of channel capacity. (Cable Act, Communications Act, § 612(b)(1), 47 U.S.C. § 532(b)(1)).[2]

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[1] Cable Communications Policy Act of 1984, as amended 47 U.S.C. §§ 521, *et seq.* ("1984 Cable Act"); Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. §§ 325, *et seq.* ("1992 Cable Act") (collectively, the "Cable Act").

[2] The Cable Act also introduces the concept of "activated channels" which are defined to mean ". . . . those channels engineered at the headend of the Cable System for the provision of services generally available to residential subscribers actually are provided, including any channel designated for Public, Educational, or Governmental use. . . ." (Cable Act, Communications Act, § 612(b)(5)(A), 47 U.S.C. § 532(b)(5)(A)).

Under the federal regulatory scheme, PEG Channels are deemed a "Class II Cable Television Channel" within the meaning of 47 C.F.R. § 76.5(s) and the transmission and delivery of PEG programming is deemed "Cable Casting" within the meaning of 47 C.F.R. § 76.5(o). Likewise, PEG Channels, if delivered, are deemed "activated channels" within the meaning of 47 C.F.R. § 76.5(n). PEG Channels are subject to the same technical requirements as other NTSC or similar video channels of that system. (47 C.F.R. § 76.601(b)(2)). The guiding principle of the Cable Act, and its implementing federal regulations, is that PEG Channels are true "channels" (i.e., identifiable portion of the electromagnetic frequency spectrum capable of delivering a television channel) and are subject, in general, to the same technical requirements as other Cable Casting.

AT&T's PEG Product is simply not a channel or channel capacity within the meaning of applicable federal law, but rather an "application" by which PEG programming is webcast in much the same way as YouTube delivers video product to the home via the Internet. As AT&T says itself:

> For the first time, with AT&T's PEG Product, viewers will receive televised content through a computer application resident in the provider's servers and accessed by the viewer's set top box. (AT&T PEG White Paper, p. 2, Exhibit A).[3]

AT&T's PEG Product, as compared to the baseline set by commercial channels within U-Verse itself, simply fails to meet the non-discrimination requirements as set forth in federal law for the following reasons:

- AT&T Specifications for Commercial Channels
  - H.264Codec at 2Mb/sec
  - Full Screen Video, resolution standard definition
  - Appear in standard U-Verse line up for channel surfing

[3] AT&T White Paper on PEG Programming ("AT&T White Paper") states that "AT&T's PEG product operates as an application that integrates content obtained via a secured internet-based link, for example, 'stream' of live community video, and delivers that content to the end user's television via the U-Verse set top box ("STB")." (AT&T PEG White Paper, p. 2, Exhibit A). Unlike its commercial channels, including, for example, over-the-air broadcast, premium channels and video on demand channels, the AT&T PEG Product is simply not a "channel" within any meaning of the word.

- Have all U-Verse features including Picture in Picture and DVR
- Each channel has a separate location
- Each channel's listings are in "TV Guide" detailed listing
- Close captioning provided on program services that deliver programs to video provider that include close captioning
- Instantaneous channel transition

- AT&T Specifications for PEG Product.
  - Windows Media Codec at 1.3Mb/sec (1Mb for Video, 0.3Mb for Audio, Captioning, Overhead)
  - Partial Screen Video – 320 x 240 resolution (iPod or Internet video quality)
  - PEG applications do **NOT** appear in standard U-Verse line up for channel surfing, but in a separate "Media Player"
  - Standard U-Verse features including Picture in Picture and DVR are **NOT** supported for PEG applications
  - All PEG applications for many adjacent communities are lumped together in the misnamed Channel "99" and do **NOT** have separate channel locations
  - PEG applications do **NOT** appear in U-Verse "TV Guide" detailed listings
  - Subscribers **CANNOT** enter individual PEG applications numbers into a remote control
  - Subscribers **MUST** pass through a series of **5 steps** to find a particular PEG applications and then expand that transmission to full size screen (all of which happens automatically in the case of commercial channels)
  - PEG applications are **NOT** capable of transmitting closed captions or EAS messages

- PEG applications are **NOT** capable of transmitting SAP
- Delayed application-to-application transition
- Incapable of programmed VCR/DVR recording
- Automatic signal cut-off.

III. LOCAL PEG CHANNELS SERVE THE PUBLIC INTEREST BY UNIQUELY MEETING THE NEEDS OF LOCAL GOVERNMENT, OUR EDUCATORS, PUBLIC SAFETY AND THE COMMUNITY.

Because PEG Channels have developed primarily to meet local needs and interests, there is no "one-size-fits-all" model for community access channel programming. In fact, the content and services provided by these channels will, and should, vary widely from city to city. Although the specific examples may differ in every jurisdiction, local PEG Channels serve at least four critical functions that serve the public interest, but that are not provided by commercial broadcasters or national networks:

- PEG Channels Provide Essential Government and Education Services. Local PEG channels foster transparency in local government by cablecasting public meetings and events. In addition, they provide information about vital government services, such as voter registration, public health and low-income assistance. Local agencies will often use PEG Channels to promote important initiatives and public services, such as fitness programs for seniors, healthy food and nutrition tips for low income families and information about free parks and recreation programs.

  Education access channels provide vital programs related to primary and secondary education, such as distance learning classes for GED and college students, regional occupational programs (ROP) training, and "homework hotline" programs for middle and high school students.
- PEG Channels Convey Critical Emergency Response and Recovery Information. Many of the California Communities include local PEG Channels as a vital component of our emergency operations planning. PEG

Channels are used to distribute disaster preparation programming, to provide real-time information on evacuations, road closures and service outages during an emergency, and to publicize recovery efforts to inform victims about assistance centers and relief services after the fact. In an emergency, viewers must have quick and simple access to local PEG Channels in order to obtain this critical information.

- PEG Channels Add Diversity to the "Marketplace of Ideas." Local PEG channels, and particularly public access channels, play a unique role in many cities, as an "electronic soapbox" to encourage expression of a wide range of local viewpoints. These channels provide free airtime and access to video production facilities to any member of the public, regardless of the speaker's message. This unique characteristic was specifically envisioned by Congress:

> "PEG programming is delivered on channels set aside for community use in many cable systems, and these channels are available to all community members on a nondiscriminatory basis, usually without charge . . . *PEG channels serve a substantial and compelling government interest in diversity, a free market of [ideas] and an informed and well-educated citizenry*. . . Because of the interests served by PEG channels, the Committee believes that it is appropriate that such channels be available to all cable subscribers on the basic service tier and at the lowest reasonable rate." (H.R. Rep. No. 102-628 at 85 (1992) (emphasis added)).

IV. DISCRIMINATORY PLACEMENT OF LOCAL PEG CHANNELS ON A SECONDARY AND INFERIOR CHANNEL TIER WILL FRUSTRATE THE PUBLIC INTEREST BY RESTRICTING ACCESS TO THE VALUABLE AND BENEFICIAL CONTENT AVAILABLE ONLY ON THE CHANNELS.

Slamming local PEG channels to high-numbered tiers, or relegating them to a Channel 99 maze of menus, will make the channels difficult for viewers to find. Unlike the commercial channels, PEG operators have virtually no resources to market the channels or channel locations, and are unable to benefit from national or regional branding campaigns to help direct viewers to the channel numbers. PEG operators rely on "channel surfing" for viewers to discover the content on these channels, and for channel number recognition to allow viewers to locate the information required easily and quickly.

In the case of AT&T's Channel 99, the process of finding the PEG channels is physically cumbersome, time consuming and frustrating for the viewer. PEG Channels relegated to this tier lack the basic functionality expected with today's video services, such as the inability to record on DVR, locate the channels on an interactive program guide or toggle back and forth from a PEG channel back to a commercial channel. The inability to provide closed captioning and secondary audio channels frustrates viewers with these special needs.

As we stated above, the California Communities have invested significant time and resources into developing the public, education and government channels in their respective jurisdictions. Now, the discriminatory practices affected by AT&T threatens to destroy the PEG model. If allowed to wither and die, these channels will take with them the last vestiges of localism and diversity that remain in our electronic mass media.

V. CONCLUSION.

AT&T's PEG Product appears to be designed to serve the economic interests of AT&T to conserve dedicated channel capacity and avoid the cost of local insertion rather than being based upon any structural technology limitation.[4] Although the California

[4] The fact that large digital video providers, such as Verizon, and small upstarts, such as

Communities understand that it is AT&T's business desire to leverage its legacy twisted copper plant with as few capital improvements as possible, since this approach works best for AT&T shareholders, it is an approach which is simply inconsistent with federal law, at least as applied to PEG Channels. The legislative mantra of federal law, as well articulated in the PEG Petitions, in relation to PEG is: "thou shalt not discriminate." As articulated in greater detail in these comments and the PEG Petitions, AT&T through its PEG Product has, and continues to, discriminate against PEG Channels. This result is simply inescapable.

In summary and conclusion, the California Communities strongly support the PEG Petitions and urge their grant based upon the federal law provisions set forth therein.

Dated: March 6, 2009

Respectfully submitted

RUTAN & TUCKER, LLP
WILLIAM M. MARTICORENA

By: 
William M. Marticorena
ATTORNEYS FOR THE CALIFORNIA COMMUNITIES

Sure West, have managed to deliver PEG Programming on a channel as opposed to upon an application basis through local insertion, interconnection, or a combination thereof, certainly argues in favor of technological feasibility.

EXHIBIT A

U-VERSE DELIVERY OF PEG PROGRAMMING

The Digital Infrastructure and Video Competition Act of 2006 ("DIVCA") envisions that competitive providers will use a variety of technologies to provide video service. Specifically, to promote competition, the statewide franchising process is designed to "allow[] market participants to use their networks and systems to provide video, voice, and broadband service." §5810(a)(l)(C). Thus, DIVCA presupposes that statewide franchise holders will put their existing networks to new uses. DIVCA recognizes that the networks of new video service providers developed differently from those of incumbent cable operators, and that new entrants' provision of PEG programming may not be identical to what is provided by cable.

AT&T is a new entrant and our PEG product is different from traditional cable PEG products. AT&T has designed a PEG product that distributes PEG content to its viewers over a much larger geographical region than does a traditional cable system. But with this new design and the supporting technology comes a different presentation of the PEG content and a different viewer experience. Because AT&T's U-verse system does not insert content physically into its network at the local level, as is currently done by incumbent cable operators, the look and feel of AT&T's PEG product does not mirror the cable PEG presentation. But DIVCA does not require that a new entrant's provision of PEG be identical to that of the cable operator, and for the reasons detailed below, AT&T's PEG product provides the quality and functionality the law requires while satisfying the public objectives behind PEG programming.

Before specifically addressing AT&T's compliance with the technical requirements of DIVCA, this paper offers important background information regarding the Lightspeed network upgrade and a description of AT&T's PEG product as it now exists and as it may evolve. This background information will explain the technological differences between AT&T's U-verse product and a traditional cable system, and the reasons why AT&T is delivering PEG content to U-verse TV customers using a software application instead of a linear channel (as cable provides).

Background on Lightspeed

AT&T is investing up to $1 billion by mid-2009 upgrading its telecommunications network in California. Attracting such capital improvements to California was one of the Legislature's enumerated goals in enacting DIVCA. Section 5810(a)(1)(B) states that "[i]ncreased competition in the cable and video service sector provides consumers with more choice, lower prices, speeds the deployment of new communication and broadband technologies, creates jobs, and benefits California's economy." This investment will bring fiber closer to AT&T customers' homes, continuing the company's aggressive network build in California. More fiber in the ground, closer to customers, will make it possible for AT&T to provide new, next-generation IP-based services over its existing network. These services will include High Speed Internet, IP telephony (VoIP), and AT&T's IP-based television service called AT&T U-verse TV.

AT&T's U-verse service is an unprecedented deployment of new communication and broadband technology. Using a client-server delivery model and proprietary compression and modem technology developed specifically for U-verse, AT&T will deliver hundreds of television

EXHIBIT A

channels (dozens of them in high definition) to California consumers over a largely copper wire network originally designed to carry telecommunications service only. The possibilities presented by this breakthrough achievement are enormous, and U-verse TV at its current stage of development has only begun to realize its potential.

Moreover, AT&T's PEG product itself deploys new communication and broadband technology in keeping with the Legislature's goals. For the first time, with AT&T's PEG product, viewers will receive televised content through a computer application resident in the provider's servers and accessed by the viewer's set top box. Again, the potential of this new technology is vast. Today viewers will receive all PEG content that originates in their designated market area (which is itself a significant improvement over cable's typical PEG system); tomorrow, this technology may be deployed to offer access to even broader PEG content choices.

The $1 billion earmarked for California includes a portion of the $4.5-$5 billion AT&T plans to spend nationwide on its Lightspeed initiative before the end of 2008. To put this investment in perspective, Lightspeed and the deployment of U-verse TV within California alone represents the largest rollout of IPTV to date in the *world*.

AT&T's PEG Product

AT&T's PEG product operates as an application that integrates content obtained via a secure Internet-based link, for example a "stream" of live community video, and delivers that content to the end user's television via the U-verse set top box ("STB"). In addition to delivering municipal content, AT&T intends to use the same technology to support the delivery and introduction of new or "specialized" commercial video content sources that hopefully will appeal to California's diverse communities. See §5810(a)(1)(D) which states that video competition "should increase opportunities for programming that appeals to California's diverse population and many cultural communities."

AT&T has designated Channel 99 as the location on its U-verse channel guide dedicated exclusively to PEG programming. The choice of Channel 99 was deliberate. Channel 99 is a prime location – it bridges the local station line up with the national channel line up, which begins at Channel 100. Customers who subscribe to *any* U-verse TV package can tune to Channel 99 to access PEG programming or can go straight to PEG programming from their main menu by selecting the Local Public Education and Government button. A new enhancement stores the last PEG channel watched and allows a viewer even faster access to his or her favorite PEG content.

After selecting Channel 99, a customer presses the 'ok' button to access all of the PEG channels available in the Designated Market Area ("DMA"). The selection of Channel 99 launches a Remote Desktop Protocol, an application running on the AT&T network which organizes and displays the PEG content via the STB that connects to the customer's television. Customers will see an alphabetical listing of all the cities with PEG programming available in their area. Once a city is selected from that menu, customers then are able to choose from a list of channels available for that city. While watching, customers can choose to display a navigational bar on screen to select different PEG programming at any time. This allows a

straightforward change from one PEG channel to another. Alternatively, customers can choose to "hide" the navigational bar and watch full screen PEG programming.

The source content from a local community is connected to a VC-1 (WM9)[1] encoder that streams the live content via Hypertext Transfer Protocol to a device in AT&T's Video Hub Office ("VHO") referred to as the Internet Mediation Device. Once the subscriber selects the PEG content, an application is launched and an Internet Group Management Protocol join message is issued for the relevant multicast stream. AT&T's PEG product includes an administrative tool that allows the city or its designee to create text (e.g., titles or labels) describing each stream of PEG content for display in AT&T's PEG application. In other words, cities can describe their programming how they choose, including by using the channel number that may appear on the incumbent cable operator's program guide (e.g., "Channel 26 - City Council").

It is important to understand why AT&T designed its PEG product as it did and, in particular, how AT&T's IP network differs from a traditional cable network. AT&T designed its PEG product based on several practical, technical, and economic considerations. While legacy PEG evolved to fit cable networks, AT&T is using its traditional *telecommunications* network to carry video and its PEG product must ride on this network. There are fundamental differences in network design that presently make it infeasible for AT&T to "mirror" the cable delivery of PEG channeling.

In a cable network, PEG is generally provided as an analog signal inserted locally in each municipality at a point downstream from the cable headend. This enables the cable operators to provide differing content on the same channel number within a DMA (i.e., viewable content on a given channel can vary by area within the DMA).

In AT&T's case, all traffic is acquired at the VHO that serves the entire DMA. AT&T's IP network does not have physical insertion points in its network downstream from its VHO given that AT&T does not distribute content using analog RF spectrum that can be layered onto its service at various points in the field. Therefore, AT&T cannot simply allocate three channel numbers for PEG (for example) and reuse them throughout the DMA relying upon local insertion of the RF signal as is the case on a typical cable network. The last physical insertion point on AT&T's IP network is at the VHO. As a result of this network difference, AT&T is not able to provide PEG programming only to the locality in which it was produced.

AT&T's network design and software provide a different experience for the PEG viewer, and AT&T cannot replicate the cable PEG experience exactly without significantly reengineering its network. To reengineer the AT&T network for an identical PEG experience would be very expensive and delay AT&T's ability to offer competitive video services. In addition, the practical impact very likely would be undesirable to AT&T's viewers. As noted, a cable operator locally inserts PEG content so that a viewer only sees on his or her program guide the channels offered in their municipality. AT&T, were it to mimic cable in its PEG solution, would be forced to send viewers many more channel numbers on the electronic program guide ("EPG") and a very large number of these would be consumed by PEG. In larger DMAs, such as

[1] VC-1 is the informal name for the Windows Media Video 9 video codec initially developed by Microsoft.

San Francisco, Los Angeles, and Chicago, this could mean literally 100 (or more) separate PEG channels would be presented to AT&T's subscribers as individually mapped channels appearing on the EPG. We believe that allocating such a high percentage of available channel numbers to PEG would frustrate viewers, cause confusion for AT&T's customer base and would detract from the consumer appeal of what AT&T intends – and DIVCA expects -- will be a competitive offering.

While AT&T's method for PEG carriage differs from legacy cable, it has several inherent benefits. First, PEG programs are available to much larger audiences because distribution is not limited to town borders. This is not only a major public benefit; it also furthers the explicit purposes of DIVCA. In particular, §5810(a)(1)(A) states that "access to a variety of news, public information, education, and entertainment programming" benefits all Californians. AT&T's PEG product promotes variety of PEG programming by greatly increasing the amount of PEG content available to subscribers. Unlike most typical cable customers, U-verse subscribers will be able to keep track of events in surrounding communities, where they might work or family members might live. Second, since PEG programming from multiple municipalities in a geographical area can be viewed, the new service brings them together in an easy-to-remember channel location – Channel 99. AT&T has assembled a very robust promotional campaign to notify AT&T subscribers that PEG content will be found on Channel 99 so that subscribers will quickly know where to go to find PEG programming. AT&T will promote Channel 99 *on the air* on Buzz Channel 300 and the Help Channel (Channel 411) on the U-verse Service; *online* through the U-connect web site (uverse.att.com/uconnect) and the U-talk discussion board (utalk.att.com); and *in print* through promotional flyers and AT&T U-guide updates.

In short, through Channel 99, AT&T subscribers get the ability to see PEG content from neighboring communities and the convenience of having it all in one place. In addition, AT&T's PEG product potentially enables cities, at marginal cost, to provide PEG content over the web because all of the city's PEG content will be in the digital form widely used for delivery over the public Internet. Thus, if a city chooses to do so, it can present digitized PEG content on its municipal web site so that anyone (anywhere) with access to the public Internet can view it. Use of this technology will empower cities by enabling more viewers to access their PEG.

Specific DIVCA Compliance Concerns

1. Channel designation requirements (DIVCA §5870(b))

Section 5870(b) requires that "to the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the basic service tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by federal law." The "extent feasible" clause modifies both the numerical separation requirement *and* the same channel number requirement. Therefore, AT&T must meet both the numerical separation requirement and the same channel number requirement of §5870(b) *only* to the extent feasible considering technological, legal, economic and other factors. As discussed above, the lack of local insertion points in AT&T's network make it infeasible for AT&T to provide PEG in the form of linear channels listed individually on its programming guide.

CERTIFICATE OF SERVICE

I, Valerie Bloom, hereby certify that I have on this 5th day of March, 2009, caused a true and correct copy of the foregoing COMMENTS OF SCAN NATOA, I NC., CITY OF IRVINE, CALIFORNIA, CITY OF SAN CLEMENTE, CALIFORNIA, CITY OF SANTA CRUZ, CALIFORNIA, COUNTY OF SANTA CRUZ, CALIFORNIA AND PUBLIC CABLE TELEVISION AUTHORITY IN SUPPORT OF PETITIONS FOR DECLARATORY RULING to be served on the following interested parties via U.S. mail, postage prepaid:

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